



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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DRAFT MINUTES FOR TELECONFERENCE MEETING Held at 12:00 p.m. on August 24, 2006, 9545 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Robert P. Goldfarb, M.D., F.A.C.S., Chair

William R. Martin III, M.D., Vice Chair

Douglas D. Lee, M.D., Secretary

Patrick N. Connell, M.D.

Patricia Griffen

Tim. B. Hunter, M.D.

Becky Jordan

Ram R. Krishna, M.D.

Lorraine L. Mackstaller, M.D.

Sharon B. Megdal, Ph.D.

Dona Pardo, Ph.D., R.N.

Paul M. Petelin Sr., M.D.

Thursday, August 24, 2006

CALL TO ORDER

The meeting was called to Order at 12:00 p.m.

ROLL CALL

Roll call was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Patricia R.J. Griffen, Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Lorraine Mackstaller, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D, R.N. and Paul M. Petelin, Sr., M.D. The following Board Member was not present: Douglas D. Lee, M.D.

CALL TO PUBLIC

Statement issued during the call to the public will appear beneath the case referenced.

TIME SPECIFIC ITEM

NO.	CASE NO.	COMPLAINANT v PHYSICIAN		LIC. #	RESOLUTION
1.	MD-06-0207A	N.R.	MARVIN L. GIBBS, JR., M.D.	13736	Summary Suspension

Marvin Gibbs, M.D. was present and spoke during the call to the public. Dr. Gibbs said he provided information to the Board showing he had received training in erectile dysfunction and has submitted guidelines that his treatment and the medication used for the patient in this case was appropriate. Dr. Gibbs said the patient's complication arose because the patient chose to double his medication and did not seek care in a timely manner. Dr. Gibbs asked the Board to allow him to continue practicing gynecology and treating erectile dysfunction, and if they saw fit, restrict him only from treating for premature ejaculation.

Mark Nanney, M.D., Chief Medical Consultant summarized the case for the Board. Dr. Nanney said the index case came to the attention of the Board via a complaint from another physician. A 35 year old patient presented on January 3, 2006 with a complaint of premature ejaculation. The patient stated in his history that he maintained an erection for 13 minutes after penetration. The time desired by the patient was two hours. Dr. Gibbs diagnosed premature ejaculation and prescribed penile injection therapy. Dr. Gibbs did not offer any conventional alternative treatments.

The test dose of the injection was .24 ccs and resulted in an erection lasting between 3 hours and 20 minutes and 5 hours (depending on where you look in the chart) and requiring 240 mg of Sudafed to resolve. The prescribed dose was .15 cc with a target erection time of 2 hours.

On January 16, 2006 the patient presented with a history of having injected himself twice on Jan 11, 2006 and having a 16 hour erection. Dr. Gibbs maintained the same dose for the patient. On January 18, 2006 Dr. Gibbs added more saline to dilute the solution, but continued the same total dose of medication.

On January 26, 2006 the patient presented at 10:30 AM to Dr. Gibbs' office with history of priapism of 13.5 hours duration after taking the prescribed dose. However, the complainant, also a physician, states that the patient had priapism of approximately one week duration upon presentation. Dr. Gibbs treated the patient with injection and aspiration with apparent resolution of the priapism and the patient was discharged. The patient had recurrent priapism and returned at 4:40 PM that same day. The patient again received injection and aspiration, but without good results. At 7:14 PM Dr. Gibbs arranged for transfer to the emergency department at least 22 hours after the erection began. Dr. Gibbs states in his response that this event must have been precipitated by overuse of the medication, but he did not document this in the patient's chart.

The patient subsequently sought care from a urologist. The subsequent treating urologist stated the patient will likely have permanent erectile dysfunction from this episode.

The Outside Medical Consultant (OMC) stated that penile injection is not therapy for premature ejaculation. Dr. Gibbs provided an extensive statutory response with multiple documents he claimed support his treatment. The OMC reviewed the statutory response and concluded that Dr. Gibbs is in effect prescribing priapism and that there is no valid literature to support his treatment plan. The OMC was further critical of Dr. Gibbs' failure to offer the patient common treatment options. The OMC provided literature to support his positions. The OMC concluded that Dr. Gibbs lacks a basic understanding of the treatment of premature ejaculation and the ability to understand or follow established treatment guidelines.

The Staff Investigational Review Committee (SIRC) discussed this case and was concerned that the critique of the OMC was very similar to prior concerns regarding Dr. Gibbs' practice patterns. In 2003 Dr. Gibbs received a Decree of Censure for internet prescribing and a practice restriction on prescribing schedule II and III drugs.

SIRC discussed that Dr. Gibbs is an OB-GYN and he lost his hospital privileges for delivery and ceased to practice inpatient obstetrics in that field. SIRC noted Dr. Gibbs then turned to internet prescribing and lost his prescribing privileges. SIRC and the OMC felt that Dr. Gibbs knowledge of sexual dysfunction was severely lacking. SIRC considered the possibility of a practice restriction but was concerned that Dr. Gibbs would then move on to another field where he was not qualified to be practicing in. Therefore, suspension was recommended.

The Board went into Executive Session at 12:10 p.m.

The Board returned to Open Session at 12:14 p.m.

Ram R. Krishna, M.D. said he believed there was patient harm in this case and, with the Dr. Gibbs' previous history, he was concerned with Dr. Gibbs' practice of medicine. Dr. Krishna found that based on the evidence presented, Dr. Gibbs was an imminent threat to the public health and safety.

MOTION: Ram R. Krishna, M.D. moved to summarily suspend the license.

SECONDED: Patricia R.J. Griffen

ROLL CALL VOTE: Roll call vote was taken and the following Board Members voted in favor of the motion: Patrick N. Connell, M.D., Robert P. Goldfarb, M.D., Patricia R.J. Griffen, Tim B. Hunter, M.D., Becky Jordan, Ram R. Krishna, M.D., Douglas D. Lee, M.D., Lorraine Mackstaller, M.D., William R. Martin, III, M.D., Sharon B. Megdal, Ph.D., Dona Pardo, Ph.D, R.N. and Paul M. Petelin, Sr., M.D. The following Board Member was absent: Douglas D. Lee, M.D.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

NON-TIME SPECIFIC ITEMS

2007 Meeting Dates

The Board discussed whether to have the December 2007 Board Meeting on Wednesday, December 12, 2007 and Thursday December 13, 2007 or to rather to hold the Meeting on Thursday December 13, 2007 and Friday December 14, 2007. The majority of the Board members agreed to have the meeting December 13-14, 2006. There were no other changes to the proposed meeting dates.

FY 2005-2006 Annual Report

Timothy C. Miller, J.D., Executive Director provided the Board members the FY 2005-2006 Annual Report that included updates of the Board's activity and accomplishments for the year. He highlighted the reduction in the total number of investigative cases and the timeframes for case adjudication.

MOTION: Ram R. Krishna, M.D. moved to accept the FY 2005-2006 Annual Report.

SECONDED: Patricia R.J. Griffen

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

FY 2007-2008 Strategic Plan

Timothy Miller, J.D., Executive Director requested the Board to approve the FY 2007-2008 Strategic Plan so it could be submitted to the Governor's Office. The Strategic Plan demonstrates the agency's performance measures for 2006, the expected performance for 2007, and the

projected performance in 2008. The average days to complete an investigation has been meeting the target goal for the past 5-6 months showing the anticipated rise in the overall average of the time shown to complete investigations for the year 2007.

Dona Pardo, Ph.D., R.N. asked Mr. Miller about the number of self-reports to the Physician Health Program as the numbers seemed to drop from the time the program first began. Mr. Miller explained the Program expected a larger number of self-reports in its first year due to the initial outreach Staff has made in the healthcare community. Staff expects the numbers of new reports to the Program to level out or decrease in time.

MOTION: Ram R. Krishna, M.D. moved to accept the Fiscal Year 2007-2008 Strategic Plan.

SECONDED: Paul M. Petelin, Sr., M.D.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

2008-2009 Budget Proposal

Timothy Miller, J.D., Executive Director requested the Board's approval for the 2008-2009 Budget Proposal. The Budget Proposal was based on the projected revenues and costs for 2008-2009 and allows for expected growth and stays within projected revenues. The Budget showed there would not be an anticipated need for increase in license fees for the years 2008 and 2009. Robert P. Goldfarb, M.D. noted the budget showed there would be no use of outside legal services and asked if there was sufficient legal support from the Attorney General's Office. Mr. Miller said that while the agency would not be utilizing outside legal services the proposed budget would allow resources to hire an additional Assistant Attorney General for additional support if needed.

MOTION: Tim B. Hunter, M.D. moved to approve the 2008-2009 Budget Proposal.

SECONDED: Lorraine Mackstaller, M.D.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

Appeal of Executive Director Dismissals

Timothy Miller, J.D., Executive Director said in October 2005 he presented a process to the Board for streamlining the handling of Executive Director Dismissals. The Board approved the process at the time as it adhered to Rule. However the Ombudsman's Office recently opined the Rule and the Board's process of handling appeals of Executive Director dismissals were not in line with statute and recommended the Board hear all timely requests for reviews of Executive Director dismissals. Such cases will go directly to the Board unless new information is received that warrants further investigation by Staff and/or possible changes in the recommended outcome.

Sharon B. Megdal, Ph.D. said she believed the Staff has a good plan and procedure for the appeals of Executive Director Dismissals in keeping with the legislative system. The Board Members were in approval of the new procedure and Mr. Miller informed them there will be a slight difference with format of the agenda to designate which cases underwent additional investigation.

The meeting was adjourned at 12:35 p.m.



Timothy C. Miller, J.D., Executive Director